

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.M-34728 of 2014
Date of Decision:- 22.09.2015

Satish Kumar

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. T.P.S. Tung, Advocate,
for the petitioner.

SHEKHER DHAWAN, J.

Present petition under Section 482 Cr.P.C. for quashing of order dated 11.09.2014 (Annexure P-5) in case FIR No.437 dated 01.11.2013, under Sections 406, 420, 466, 468, 471 and 120-B IPC, registered at Police Station City Sonapat, whereby the petitioner was declared proclaimed offender.

2. Relevant facts of the case that Jai Singh submitted a complaint that Jai Bhagwan had cheated and played a fraud with him and his close relatives by promising them jobs in Municipal Corporation, Delhi. During inquiry, statement of Jai Bhagwan and others were recorded, who stated that Jai Bhagwan had taken amount on the pretext of getting jobs in Municipal Corporation, Delhi. In fact, Jai Bhagwan is real accused.

Petitioner-Satish Kumar is innocent and has been falsely implicated in the

present case. Petitioner filed CRM-M No. 32397 of 2014 titled as Satish Vs. State of Haryana, in this Court, for grant of anticipatory bail and vide order dated 22.09.2014, ad-interim bail was granted to him. Thereafter, petitioner came to know that he had been declared proclaimed offender on 11.09.2014.

3. Learned counsel for the petitioner submitted that Courts below did not follow the procedure, as prescribed under the law for declaring the petitioner as proclaimed offender. No notice was pasted in front of the house of the petitioner. More so, during inquiry petitioner was found innocent though the report has not been accepted as yet.

4. Learned State counsel has submitted that petitioner was declared proclaimed offender as per law.

5. Having considered the submissions made by learned counsel for the parties and perusal of the record reveals that on 12.05.2014 warrants of arrest of accused Shiv Kumar and others were ordered to be issued, which were returnable by 03.07.2014. Vide order dated 02.08.2014 (Annexure P-8), non-bailable warrants of arrest issued against petitioner Satish Kumar and others received back unexecuted by the Court and an application was moved for declaring the said accused as proclaimed offender of the Court. The Court after recording the said facts that the presence of accused cannot be procured through ordinary manner, issued proclamation for the presence of accused under Sections 82/83 of Cr.P.C. and executing constable was directed to publish the same at least one month before the next date of hearing and to remain present before the Court in person to make the statement on 30.08.2014. On 30.08.2014,

accused Shiv Kumar had taken the plea before the Chief Judicial Magistrate, Sonapat that application for anticipatory bail was filed before this Court and the matter was posted for 11.09.2014 by the Chief Judicial Magistrate, Sonapat. On 11.09.2014, none was present on behalf of petitioner Satish Kumar and the Court completed the proceedings regarding declaration of petitioner as proclaimed offender.

6. Perusal of above record reveals that, learned Chief Judicial Magistrate, completed the proceedings thereby declaring petitioner Satish Kumar as proclaimed offender, after issuance of non-bailable warrants of arrest and after recording that presence of accused could not be procured, despite issuance of warrants and thereafter by way of issuance of proclamation under Sections 82 and 83 Cr.PC.. There is no illegality, calling for quashing the said proceedings. Therefore, the present petition is without any merit stands dismissed.

September 22, 2015
naresh.k

(**SHEKHER DHAWAN**)
JUDGE